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In re Application of LATARNIK et al
U.S. Application No.: 09/936,638
Int. Application No.: PCT/EP00/02347
Int. Filing Date: 16 March 2000
Priority Date: 17 March 1999
Attorney Docket No.: 10543-032
For: METHOD FOR DETERMINING
PARAMETERS

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DECISION

This is in response to the papers filed 18 January 2002, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 16 March 2000, applicant filed international application PCT/EP00/02347, which claimed priority of an earlier Germany application filed 17 March 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 October 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 September 2001.

On 12 September 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 31 October 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 January 2002, applicant filed the present request for status, including a declaration executed by joint inventor Helmut Fennel and by the legal representatives of joint inventor Michael Latarnik, who according to the declaration is deceased.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In the present case, the declaration filed 18 January 2002 is not in compliance with 37 CFR 1.497(b)(2). Specifically, the declaration does not state the citizenship, residence, and mailing address of the legal representatives. It is further noted that Michael Latarnik is listed as the second inventor, the third inventor, and the fourth inventor, which is improper.

CONCLUSION

For the reasons above, the request for status is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained up to the limit set forth by the Notification of Missing Requirements mailed 31 October 2001. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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